IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 20247 of 2005(I)

OA.99/1998 OF LAND TRIBUNAL, ERNAKULAM.

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PETITIONER:

RATNAVALLY AMMA, KANICHIYATH HOUSE,
CHERAI P.O., ERNAKULAM DISTRICT.

BY ADV. DR.K.P.KYLASANATHA PILLAY,
SRI.ARUN.B.VARGHESE,
SRI.T.P.DEYANANTHAN,
SMT.SREEDEVI KYLASANATH.

RESPONDENTS:

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1. **LAND TRIBUNAL REPRESENTED BY ITS CHAIRMAN, ERNAKULAM.**
2. **ANNAM, W/O. KAITHARAN VARGHESE, CHERAI MURIYIL, PALLIPPURAM VILLAGE.**
3. **MARY, D/O. ANNAM, CHERAI MURIYIL, PALLIPPURAM VILLAGE.**
4. **ROSY, D/O. ANNAM, CHERAI MURIYIL, PALLIPURAM VILLAGE.**
5. **AUGUSTINE, S/O. ANNAM, CHERAI MURIYIL, PALLIPURAM VILLAGE.**
6. **ABRAHAM @ EMPY, S/O. ANNAM, CHERAI MURIYIL, PALLIPURAM VILLAGE.**

BY ADV. SRI.T.R.ASWAS FOR R2 TO R6,
SRI.ANIL KUMAR SREEDHARAN,
GOVT. PLEADER SMT. R. BINUD FOR R1.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.20247/2005:

APPENDIX

EXT.P.1: COPY OF THE JUDGMENT DTD. 30/11/1987 IN LRAs NO. 117/1985 OF THE COURT OF APPELLATE AUTHORITY (LAND REFORMS) ERNAKULAM.

EXT.P.2: COPY OF THE ORDER DTD. 21/12/98 IN C.R.P. NO. 193/88 OF THIS HONOURABLE COURT.

EXT.P.3: COPY OF THE ORDER DTD. 25/10/96 OF THE HONOURABLE SUPREME COURT DISMISSING THE S.L.P FILED BY THE RESPONDENTS.

EXT.P.4: COPY OF THE ORDER DTD. 09/05/2005 IN O.A. 99/98 OF THE R.1.

EXT.P.5: COPY OF THE NOTICE ISSUED BY THE SPECIAL TAHSILDAR (LR) ERNAKULAM DTD. 29/07/2005.

RESPONDENT'S EXHIBITS:

EXT.R2: CIRCULAR NO. 44277/96/LAD DT. 29/09/1997 ISSUED BY THE SECRETARY TO THE GOVERNMENT.

EXT.R2.A: COPY OF THE PROCEEDINGS OF LAND TRIBUNAL DTD. 17/02/2005.

EXT.R2.B: REPORT OF SCRETARY, PALLIPURAM GRAMA PANCHAYATH.

EXT.R2.C: REPORT OF VILLAGE OFFICER, PALLIPURAM VILLAGE.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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WP(C) No.20247 OF 2005

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Dated this the 2nd day of July, 2007

JUDGMENT

This writ petition is filed seeking to set aside the order of the Land Tribunal, Ernakulam in O.A.No.99 of 1998 dated 9.5.2005. As per the said order the Tribunal found that the land in question is only 49.6 mts. away from the Kottappuram-Ernakulam puzha and it comes within the purview of the Coastal Area Protection Act and therefore the application for shifting kudikidappu cannot be considered and therefore dismissed the same. It is against that decision the present writ petition is filed.

2. Learned counsel for the writ petitioner submits that it is factually an incorrect order and she has not been given an opportunity to put forward her case and adduce evidence in support of her contentions. On the other hand, learned counsel for the first respondent would contend that the Land Tribunal had ascertained from the proper authorities and only as per the reply obtained from the proper authorities it took the decision that it comes under the purview of the Coastal Area Protection Act and therefore the order does not suffer from any infirmity. The Land Tribunal was

originally concerned with the shifting of kudikidappu and only at the execution stage this point has come to the lime light. The counsel for the writ petitioner submits that he must be given an opportunity to show that what is stated in the order is incorrect and according to him the Coastal Area Protection Act may not apply to the area where the shifting of kudikidappu is proposed. The order also does not state the way in which the Tribunal has arrived at such a decision and therefore I feel an opportunity has to be given to the petitioner to put forward her contentions and produce documents and adduce evidence in support of her claim. Respondents have also to be given equal opportunity to rebut the same and the Tribunal is directed to dispose of the matter after hearing both sides in accordance with law within two months from the date of first appearance of the parties. For the said purpose, parties are directed to appear before the Land Tribunal, Ernakulam on 28.7.2007.

The Registry is directed to send back the records to the Land Tribunal, Ernakulam immediately.

M.N.KRISHNAN, JUDGE

Cdp/-